

*Subject to the approval of the Natural Resources Interim Committee*

**MINUTES  
NATURAL RESOURCES INTERIM COMMITTEE  
January 11, 2012  
Capitol Building – West Wing – Auditorium  
700 West Jefferson Street  
Boise, Idaho**

**Co-chair Senator Monty Pearce** called the meeting to order at 1:00 p.m.

Members present were: Co-chairs Senator Monty Pearce and Representative Dell Raybould, Senators Steve Bair, Jeff Siddoway, Lee Heider and Michelle Stennett and Representatives Bert Stevenson, Scott Bedke, Mike Moyle and Donna Pence. Ad Hoc members present included Senators Bert Brackett, Shawn Keough and Elliot Werk and Representatives Ken Andrus, John Vander Woude and Grant Burgoyne. Senator Dean Cameron and Representative Paul Shepherd, Ad Hoc members, were absent and excused. Staff members present were Katharine Gerrity and Charmi Arregui. Others present included Secretary of State Ben Ysursa; Representative Dick Harwood; Representative Robert Schaefer; Laurie Boeckel; Mike Thomas; Jan Sylvester; Director Tom Schultz, David Groeschl, Pat Hodges, Emily Anderson and Bob Brammer, Idaho Department of Lands; Sharon Kiefer, Idaho Fish and Game; Andy Brunelle, Forest Service; Phil Homer, Idaho Association of School Administrators; Bert Marley, Idaho Education Association; Larry Johnson; Brent Olmstead, Milk Producers of Idaho; John Eaton, Idaho Association of Realtors; Tony Park and Josh Boyd, Payette Lake Cabin Owners' Association; Robert Forrey, Rachel Gilbert, Rod Beck, Ron Harriman, Ronalee Linsenmann, Hubert Osborne, John Runft and Maurice Clements, Taxpayers Accountability Committee; Todd Hatfield, Hatfield Log Homes; Erik Makrush, Idaho Freedom Foundation; Chuck Lempesis, Bill Podobnik and Donna Christenson, Priest Lake State Lessees' Association; Sandra Mitchell, Idaho Recreation Council; Jesse Taylor, Westerberg & Associates; Norm Semanko, Idaho Water Users Association; Courtney Washburn, Idaho Conservation League; McKinsey Miller, The Gallatin Group; Mike Midbury; Max Greenlee, Risch Pisca; Jane Wittmeyer, Wittmeyer and Associates; Kent Lauer, Idaho Farm Bureau; Vincent Corrao and John Erixson, Northwest Management Inc.; Parrish Miller; Jason Kreizenbeck, Lobby Idaho; and Steve West.

NOTE: Copies of presentations, reference materials, and handouts are on file at the Legislative Services Office.

**Co-chair Senator Pearce** made a number of opening remarks and called for a silent roll call. **Representative Stevenson** moved that the minutes of the August 29 and August 30, 2011, meetings be approved. The motion was seconded by Senator Stennett and passed by unanimous voice vote.

**Senator Bair** and **Representative Boyle**, Co-chairs of the ATV Task Force that met several times during the interim, reported to the Committee. The purpose of the task force was to determine how best to handle motorized vehicle usage on public lands, the subject of a number of Senate bills during the 2011 Legislative Session (S1015, S1016 and S1159).

**Senator Bair** indicated that the task force heard testimony from a wide range of groups and a number of state agencies as well as the Forest Service, the Bureau of Land Management, the Idaho Conservation League and numerous private citizens.

**Representative Boyle** told the Committee that after the second meeting of the task force, the members requested an opinion from the Office of the Attorney General regarding the intent and interpretation of some statutes as they relate to the motorized vehicle usage issue. **Representative Boyle** reported that the opinion expressed that legislative intent, in regard to motor vehicle usage, is not well defined and that the Legislature may wish to revisit the statutes.

**Representative Boyle** stated that the Department of Parks and Recreation and the Department of Fish and Game were very open with the task force, defining their conflicts associated with the motorized vehicle use issue. She indicated that the Department of Parks and Recreation collect fees, pay to repair trails and participate in travel plans. Conflict has arisen with the Department of Fish and Game when Fish and Game closes trails, despite those trails being on travel plans. She stated that the departments indicated they would meet to attempt to come up with some solutions.

**Senator Bair** reiterated that after the first meeting of the task force, the departments conferred and decided that the two agencies, along with stakeholders, would meet and determine whether they could find some commonalities to work on together. He noted that as a result of meeting, a number of agreements were made. He noted that the Department of Fish and Game will place a moratorium on any more road closures for hunting. He said that in the event the department believes it needs to protect habitat, it will confer with the Department of Parks and Recreation and open another road in the event they have to close one. **Senator Bair** stated that the departments intend to keep the channels of communication open. He noted that the Department of Fish and Game also agreed to revise the motorized vehicle rule and go through a scoping process by setting up meetings with stakeholders, including ATV users that are hunters as well as those that are not. He reminded the Committee that in 2013 the Legislature will have the opportunity to review that revised rule. **Senator Bair** commented that another important element is that Fish and Game will do biological research to determine whether the motorized vehicle hunting rule is working.

**Representative Boyle** reiterated the intent of the departments to work cooperatively, particularly in travel management areas. She noted that there have also been some issues where the Forest Service has changed certain boundaries involving motorized trails.

**Senator Bair** stated that the task force had some lengthy discussions relating to Co-chair Pearce's SB1159 from the 2011 Legislative Session relating to proposed limitations in section 36-104, Idaho Code, associated with the use of roads on federal lands. He said that the task force learned that the statute is narrowly interpreted, applying only to the misuse of ATVs associated with hunting big game. He stated that the task force was provided with some general statistical information indicating that over the last 10 years the Department of Fish and Game wrote approximately 34,000 citations in all. Of those, only 3.7% dealt with off-highway vehicles, and of those only 1% dealt with the motorized hunting rule.

**Senator Bair** said that in his opinion, the Department of Fish and Game doesn't write enough citations on federal land to make it much of an issue.

**Senator Heider** asked whether the task force addressed who would govern ATV use in the state. **Senator Bair** responded that they did address that issue and there is some confusion over such things as licensing, use of trails, etc. He also responded that he and Representative Hagedorn drafted some legislation to provide a clearinghouse through the Department of Parks and Recreation where agencies could collectively provide such information. He noted that the task force learned that there was already such a clearinghouse being developed and the Department of Parks and Recreation will be putting that information on their website.

**Director Tom Schultz, Idaho Department of Lands**, was the next speaker to address the Committee, providing information relating to the department's Asset Management Plan Update.

**Director Schultz** first provided the Committee with some personal background information, having recently been named Director following his career in the state of Montana, where he worked on similar issues with Montana's Department of Natural Resources & Conservation.

**Director Schultz** stated that the goals of endowment management are to maximize financial returns over time, which he described as financial stewardship, to maintain or improve the revenue-generating capacity of assets, which he described as land stewardship, and to provide a stable and perpetual distribution of income to the trust beneficiaries.

**Director Schultz** noted that the Asset Management Plan is a document that is used to ensure assets can be managed, preserved and protected for long-term goals and strategy. He stated that the plan defines overarching beliefs and philosophy about a set of collective investments and includes elements of financial analysis, asset selection and divestiture, asset allocation and diversification, plan implementation and ongoing monitoring of the investments and assets. **Director Schultz** indicated that asset management plans are not unique to Idaho and that Idaho's first plan was adopted in 2007 and revised in 2009. The current changes represent the third revision.

**Director Schultz** noted that the revisions include updates due to ongoing work with other western states to better define asset classifications for comparable analysis. He stated that revisions have also been made due to Land Board policy changes since adoption of the first plan, such as how cottage sites are handled. He added that changes have also been made for clarification of Land Board asset management and investment philosophy, commensurate with its constitutional directive and the prudent investor standard of care.

**Director Schultz** proceeded to point out specific updates within the plan. Director Schultz's PowerPoint summarized the areas of update as follows:

- Updates to the plan's "Overview" and "Financial Trust Assets" sections. These updates include primarily clarification changes designed to aid reader understanding of asset management philosophy given constitutional directive and trust law. There have also been changes to "Distribution Policy" language. These changes reflect Land Board policy changes since the original plan was adopted and demonstrate the fact that each of the nine trusts is unique in earning capacity based on asset composition.
- Updates to the "Land Trust Assets" section, which again include primarily clarification changes. The "Asset Classification and Description" table has also been updated to reflect ongoing work with similar trust managers across the West. Changes have also been made to reflect the Land Board's desire to unify the cottage site estate and the steps necessary to implement that decision in a business savvy manner. Commercial real estate assets have also been updated to aid reader understanding of asset management philosophy given constitutional directive and trust law. Recreation has been removed as an asset class, with continued recognition of its challenges. Updates have also been made to the exhibits and appendices section as well as to the glossary of terms.

**Director Schultz** summarized his presentation by noting that the foundation of the Asset Management Plan is the Land Board's constitutional directive and the prudent investor standard of care applicable to

all trusts in the state of Idaho. He stated that the plan serves as a guideline for day-to-day trust managers to ensure asset protection in perpetuity through management as a whole trust and secondarily provides an educational tool to communicate roles and responsibilities to trust beneficiaries and the public.

**Senator Bair** asked **Director Schultz** what an “NNN lease” is. **Director Schultz** directed **Senator Bair** to the glossary and the definition relating to triple net leases where the tenant pays for rent plus property taxes, insurance and maintenance.

**Representative Bedke** asked, in regard to accrual accounting, how legal expenses are shown. **Director Schultz** responded that he wasn’t sure in terms of legal costs because some of those costs are handled by the Office of the Attorney General. He added that the accrual method is a supplemental basis.

**Senator Heider** asked **Director Schultz** what the department’s plan was in terms of cottage sites, specifically whether it planned on selling to homeowners and reinvesting the money in other assets. **Director Schultz** responded that there is an opportunity for existing lessees to buy through auction or do land exchanges. He stated that those lessees could come forward to the department and indicate interest and the department would entertain proposals. He added that in terms of reinvestment, moneys could go to anything provided in the plan.

**Representative Vander Woude** asked why “annual evaluations” in regard to the performance of underperforming parcels was changed to “periodic evaluations.” **Director Schultz** responded that the department was not evaluating on an annual basis. The intent was to look at the assets over time. He added that where an asset is underperforming, there are other things that might be done to increase the performance.

**Representative Vander Woude** then asked how the department determines appreciated value on an annual basis. **Director Schultz** said that they did a large-scale, mass appraisal on landholdings and those are indexed on an annual basis. He stated that return may not be a good indicator for all assets and provided the example of rangeland and returns. He added that grazing can coexist with many other activities, so that doesn’t mean the land will be divested because it has been underperforming. He noted that they try to look at multiple indicators.

**Senator Keough** referred back to a question asked by **Senator Heider**. She stated that there has already been an effort to present the department with a proposal for land exchange on cottage sites and she wonders why they aren’t further along in the process. **Director Schultz** responded that he believes the department has moved along since February, 2010, when the Land Board voted to unify the cottage site estate in a business-savvy manner. The department, he said, has been going through the lot solutions process and surveying to make sure people know what they would be getting. He added that they are open to suggested transactions but have to proceed through the lot solutions process.

**Representative Burgoyne** made a general observation about the definition of “real estate” in the plan. That definition provides that “real estate” means “land and all physical property related to it, including houses, fences, landscaping and all rights to the air above and the earth below the property.” He stated that the definition doesn’t seem to apply to LLCs or corporations as assets. He asked whether the Director could respond in regard to the idea of the state holding a business entity. **Director Schultz** responded that he would have to check with department counsel and get back to **Representative Burgoyne** regarding the authority.

**Representative Burgoyne** noted the holding of Affordable Storage and stated that he cannot see authorization for the acquisition of businesses in the future. **Director Schultz** stated that the Land Board's land management philosophy is set forth in the language on the bottom of page 17 of the plan, which includes the intent of contracting with private entities to operate business activities upon the land trust assets.

**Representative Raybould** inquired about the disposition of assets and whether there is anything in the plan that would give a lessee the first right of refusal to purchase the property. He also asked about improvements and how those are appraised in the event the lessee is not the successful purchaser. **Director Schultz** stated that there is nothing in the plan that expressly awards a preference. He said that Idaho law provides a grazing lessee may continue in possession for a period of two years in the event they are not the successful bidder but, without an express provision in Idaho law for other types of assets, he doesn't think they could put that in the plan. He added that in Nebraska a preference right has been deemed unconstitutional, but they do have a preference right in the state of Montana. **Director Schultz** stated that in terms of improvements, the lessee would be compensated by the purchaser of the property and that there would be an appraisal.

**Senator Siddoway** stated that he believes the department has the responsibility to look at any and all offers and maximize the return to the beneficiaries. He said that it is frustrating to him in regard to the cottage sites that lessees couldn't just purchase the sites openly.

**Representative Wood** asked about the plan's conservation component and for an explanation of that component. **Director Schultz** responded that there is an obligation for land stewardship. He said that as an example there is the potential for parkland to be under a conservation lease. He also noted federal conservation program payments.

**Senator Siddoway** followed up with a question about conservation easements. He stated that if there has been, for example, a livestock operation on the land, that operation is paying taxes and that benefits education. He went on to say that the conservation easement is just a one-time payment or payment over the years and asked whether the department considers those ancillary benefits to education. **Director Schultz** responded that Idaho has not had any conservation easements on endowment lands in Idaho. He went on to say that conservation easements are negotiated with landowners, and it is up to the landowners to negotiate activities when entering into such a lease. He noted that he has seen them in Montana and that grazing, for example, can be compatible with a conservation easement.

**Representative Vander Woude** asked whether there was a substantial difference in the definitions of "land" and "real estate." **Director Schultz** stated that the discussion predates him. He said that "real estate" is broader than "land" but he would have to get back to **Representative Vander Woude** regarding the history.

**Representative Vander Woude** followed up with a reference to page 19 of the plan which indicates that it is the Land Board's objective to optimize risk and rewards of the overall portfolio. He asked how risk is determined. **Director Schultz** responded that they have not specified or quantified risk level and that every investment will have some risk. He said the intent is to recognize the levels of risk.

**Representative Burgoyne** stated that as he read through the plan, he thought it was interesting that the goal was to achieve earnings that are commensurate with peers, which he assumes to be other states.

He stated that to him, this suggests the goal is to be average. He noted that he assumed we have assets that are superior to other states and vice versa. He said that he also noticed that diversification comes up a great deal and it seems tied to the way to decrease or eliminate risk. He also noticed there is a lack of a definition. Finally, he stated that he found it interesting that we don't know if we'll go down the storage facilities route again. The plan doesn't indicate that it could be done again. He said that it seems that in evaluating risk there are a lot of moving targets. **Director Schultz** responded that he appreciated those comments. He said that, as to peers, there are some assets that Idaho has that do much better than those in other states and vice versa. In terms of diversification, to be heavily invested in one asset type causes some concern. He added that the department makes recommendations from a financial perspective, but ultimately the Land Board makes the decisions.

**Senator Stennett** asked how the department handles the different asset types. **Director Schultz** responded that they have staff with expertise in such things as timber and grazing, for example. They also hire from the private sector to manage certain assets which, he said, works well with the commercial real estate asset classification, as an example.

**Co-chair Senator Pearce** asked what the rate of return on monetary investments is in comparison with the return on hard assets. **Director Schultz** responded that a four percent real return is their target. The Endowment Fund Investment Board handles this. Return on commercial assets is about six to eight percent and grazing is about one percent. **Co-chair Senator Pearce** asked whether the department is doing anything in regard to mineral rights. **Director Schultz** responded that the department has legislation this year dealing with oil and gas, and that the state has a right to develop its minerals with protections to the surface owner.

**Representative Burgoyne** and **Representative Vander Woude** were the next presenters in regard to revisions to HB 188 from the 2011 Legislative Session that were made following the Committee's meeting in August, 2011.

**Representative Burgoyne** stated that the revised draft adds a section for Legislative Findings where constitutional requirements are set forth as well as reference to the Idaho Admission Bill. The findings provide a view that there is a shared responsibility between the Legislature and the Land Board. The findings recognize the Legislature's constitutionally authorized powers in regard to the regulation of the procedure of the Land Board in its dealing with trust assets. The findings provide that the trust assets are for the benefit of present and future generations and "constitute a trust of the most sacred and highest order" and "shall forever remain inviolate and intact," citing to an Idaho Supreme Court case as well as a United States District Court case. **Representative Burgoyne** stated that several changes were made to section 2 of the draft based on discussions at the last meeting. He noted that in section 3 of the draft, language was stricken relating to authorization to hold moneys in the land bank for a period of up to five years.

**Representative Vander Woude** stated that they tried to correct some of the concerns pointed out in regard to HB 188. **Co-chair Senator Pearce** noted that he would like to have Committee discussion and take public testimony prior to any motion relating to the draft.

Committee discussion was held. **Senator Siddoway** stated that he doesn't like the use of the phrase "public lands." **Representative Burgoyne** responded that he doesn't necessarily disagree but in drafting the language he had assistance from others that assured him "public lands" was legally correct. He added that he appreciated the comments.

**Representative Andrus** asked whether the use of the phrase “private persons” in terms of leasing was going to meet constitutional requirements. **Representative Burgoyne** said that he could not predict. He noted that the Legislative Findings were added to hopefully have the courts give some deference. He added that there are disagreements about the role of the Legislature. He also stated that the use of the word “persons” was in the broadest legal sense.

**Senator Brackett** asked whether use of the phrase “endowment lands” would be more precise. **Representative Burgoyne** responded that there are a number of terms he prefers.

**Senator Siddoway** asked about the changes that would have all the money going to the corpus. He said that he would be opposed to that because it restricts the department from making investments that would increase the value to the beneficiaries.

**Representative Bedke** asked what would be sold off under the changes and **Representative Burgoyne** responded that, in his estimation, it would be Affordable Storage. **Representative Bedke** then stated that he understands the state holds property in Boise that houses commercial businesses and he wondered whether those buildings would be sold. **Representative Burgoyne** responded in the negative and noted that this language would permit the leasing of those improvements.

**Co-chair Senator Pearce** called for a brief recess of the Committee.

Following the break, the Committee took public testimony associated with the Department of Lands Asset Management Plan Update.

**Mr. Robert Forrey** was the first to address the Committee. He directed the Committee’s attention to the mission statement set forth on page 3 of the plan, specifically the assertion that there is a concern expressed by some members of the public that the trust unfairly competes with private enterprise. He noted that this is not simply a perception, but a fact. He stated that the plan addresses “competitors” and asserted to the Committee that the competitors are private enterprise business people who have the disadvantage of having to pay taxes. **Mr. Forrey** proceeded to point out a number of provisions of the plan that he believes are not within the purview of the government. **Mr. Forrey** also stated that the Land Board’s pricing methodology is established in the Idaho Constitution, that being auctions.

**Mr. Vincent Corrao** also provided testimony to the Committee. He noted that he is a forester and believes that the plan is a critical document in the success of managing the state’s resources. **Mr. Corrao** told the Committee that the Washington State Department of Natural Resources recently reduced its staff by 25% and lowered the cost of management from 30% of stumpage to less than 25% of stumpage. He said that this is in part due to Washington’s very restrictive Forest Management Practices Act. He went on to say that the Idaho Department of Lands’ costs have increased 30% during the period from 2005 to 2010. He noted that he is not suggesting that the department needs additional environmental regulatory oversight or requirements and he believes that what is being done now is sufficient to protect the resources. He said that harvests have also increased by about 25% which may account for some of the increased costs. **Mr. Corrao** concluded by stating that the natural resources of Idaho that are managed by the department must be evaluated effectively so that they can add value to the endowment, be managed sustainably, and keep our communities healthy by using the amenities they provide.

**Erik Makrush** with the Idaho Freedom Foundation testified that one of their biggest concerns is the state running commercial businesses. He stated that the Land Board has an obligation to maximize the return to the beneficiaries. He noted that they believe the Legislature has the obligation to define what the limits are for the Land Board and the department, so that they can move forward and maximize the endowment fund. He also addressed diversification in terms of endowment fund management. **Mr. Makrush** concluded by urging the Legislature not to allow government to compete against private business.

**Mr. Ronald Harriman**, a retired certified appraiser, also addressed the Committee. He stated that competition with private enterprise should not be allowed, citing the example of the storage facility. He commented on how such competition results in a tax shift to the people of that jurisdiction.

**Mr. Todd Hatfield** testified that the constitution doesn't authorize operation of commercial enterprises. The constitution provides that the lands be managed in a way that secures the maximum long-term financial return to the beneficiaries. He stated that there are countries that have state-owned businesses and he doesn't think that is what we should be doing. He urged the Committee to advance the revised version of HB 188 from the 2011 Legislative Session.

**Ms. Rachel Gilbert** was the next speaker to address the Committee. She questioned the stewardship associated with the endowment lands. **Ms. Gilbert** pointed out that there was a 29% loss on commercial holdings noted in the 2010 annual report. She went on to say that the philosophical issue is very important in terms of the state's ownership of commercial property and competition with the private sector. She questioned whether the public really knows about this issue. She stated that the Idaho Supreme Court has stated that these trust assets are a matter of sacred trust. She went on to say that trust assets should never be put at risk and that the Idaho Constitution is clear about the Legislature's authority in terms of trust assets.

**Mr. John Runft** also testified before the Committee. He commented that he assisted in the drafting of the revised version of HB 188. He provided written comments to the Committee which addressed the purpose and effect of the draft legislation. **Mr. Runft** also commented on diversification and stated that he believes diversification is best handled through the Permanent Endowment Fund.

**Co-chair Senator Pearce** asked **Mr. Runft** to comment on the use of the term "public lands." **Mr. Runft** noted that the statutory language goes back and forth. He indicated that the language could be changed to "state endowment land."

**Representative Bedke** asked **Mr. Runft** about the rationale in removing the five-year provision relating to holding proceeds in the Land Bank Fund. **Mr. Runft** responded that the object would be for proceeds to go into the Permanent Endowment Fund for investment purposes, limiting the amount of money the Land Board has available. He said that it would not affect land exchanges.

**Mr. Hubert Osborne** also provided the Committee with a written statement wherein he stated that he believed channeling money from the sale of land into commercial real estate violates the prudent investor rule.

There was Committee discussion regarding the revised version of HB 188. Several suggestions regarding changes to the language of the draft were discussed. **Representative Stevenson moved that the draft be revised to incorporate changes discussed, including reference to "state endowment lands" and**

**inclusion of “entities” in section 58-104A, Idaho Code, as well as revising the length of time moneys can be held in the Land Bank Fund to one year in section 58-133, Idaho Code. The motion was seconded by Representative Bedke and passed on voice vote.**

**Director Tom Schultz**, Idaho Department of Lands, provided the Committee with a PowerPoint presentation regarding the cottage site lot solutions process. He noted that on February 16, 2010, the Land Board voted to unify the cottage site estate in a business-savvy manner. He added that the decision prompted the need for a systematic, orderly process to ensure endowment trust beneficiaries receive proper benefits from exiting this unique and high-value asset.

**Director Schultz** went on to note that the focus would be on endowment trust land leased for recreational cottage sites. He said that there are over 500 sites at both Payette and Priest Lakes and that trust beneficiaries include public schools, Normal School and State Hospital South. He added that the steps involved are to address access/easement situations, to delineate roles and responsibilities for roads and common areas, and platting activities including coordination with counties and neighborhood meetings for each plat area.

**Director Schultz** said that the result will be endowment trust land prepared with marketable title, the long-term value of the endowment trust land will be maintained and there will be continued use and enjoyment of the areas by stakeholders. He said that they anticipate completion in the Fall of 2012.

**Representative Stevenson** asked whether legislation would be advantageous. **Director Schultz** commented on some legislation passed in the state of Montana. He said that Montana’s law is aimed primarily at lease rates, that it hasn’t played out yet in Montana and it might be good to watch what happens. He added that Idaho’s process is really about disposition.

**Representative Bedke** asked **Director Schultz** whether they have any legislation being developed relating to a change in the constitution. **Director Schultz** responded that they have no proposed legislation in terms of promoting a different process for sale other than auction. He stated that what we have is the ability to exchange, or for a sale at public auction.

**Senator Keough** asked for an explanation about the delay. She asked whether the time frame presented in the director’s PowerPoint was really the time frame. **Director Schultz** responded that to the best of his knowledge that is correct. He said the surveys are completed and meetings will begin. He said that they hope that within twelve months the process will be complete.

**Representative Vander Woude** asked whether there is any ability for a lessee to dispute an appraised value. **Director Schultz** responded that he was not aware of such ability, but would check into it further. He added that the appraisals are typically done by third parties.

Public testimony followed with **Mr. Chuck Lempesis** being the first to address the Committee. **Mr. Lempesis** is from Post Falls and represents the Priest Lake State Lessee Association. He told the Committee that the cottage site lease program is antiquated. He said that it is imperative to proceed with the disposition because the state is losing money managing cottage sites, rather than putting the money into other assets. He stated that the Idaho Constitution directs the Legislature to become involved in the process and he wants them to be involved. He added that the current lessees should be treated equitably and the return should be maximized. **Mr. Lempesis** said that his lessees could probably buy the cottage sites but cannot afford to rent them, and that they are being driven out.

**Representative Robert Schaefer** addressed the Committee in regard to section 58-310B, Idaho Code, which the Idaho Supreme Court found unconstitutional. He also referenced an Attorney General's Opinion which expressed that a reviewing court likely would conclude the Legislature does not have the authority to exempt leases of state endowment lands for cottage sites from the public auction requirements of the Idaho Constitution, which is provided for in section 58-310A, Idaho Code. He added that he wants to get rid of this unconstitutional law.

**Mr. Josh Boyd**, Payette Lake Cabin Owners Association, was the next person to address the Committee. He provided the Committee with spreadsheets reflecting the effects of delaying the cottage site exchanges. **Mr. Boyd** noted that delaying the exchanges in hopes of letting the cottage sites appreciate is a poor assumption. He said that the sites would have to appreciate by 26.52% per year to break even with the lost income of the endowment beneficiaries, which he estimates to be \$102,304,588. He added that delaying the exchanges is not in the best interest of the beneficiaries and therefore does not meet the prudent investor standards. He concluded that, in his opinion, the revised HB 188 is a good idea, but thinks the real problem is in the loss of \$9 million a year.

**Mr. Robert Forrey** testified before the Committee noting that the Land Board is not following provisions of the Idaho Constitution in regard to cottage site leases. He also referenced section 58-310A, Idaho Code, which he stated exempts cottage sites from conflict auction provisions, despite constitutional provisions to the contrary. **Mr. Forrey** added that the Legislature could direct the Land Board to make a land exchange, exchanging the cottage sites for timber.

**Co-chair Representative Raybould** asked **Mr. Forrey** whether an association that the sites are in might go out and purchase a tract of timberland and offer that to the department in exchange for the lots, rather than each individual lot. **Mr. Forrey** responded that would be a possibility. He said that there have been offers made already to get a combination of owners to put together a major land exchange.

**Mr. Kevin Boling**, Olson Land Exchange, also addressed the Committee in regard to assembled land exchanges. He provided the Committee with information relating to his company's vision of a series of assembled land exchanges, the benefits of assembled land exchanges and the priorities of such assembled land exchanges.

The meeting was adjourned by **Co-chair Senator Pearce** at 4:30 p.m.